

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MRS. JUSTICE K.HEMA

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

WP(Crl.).No. 150 of 2007(S)

PETITIONER:

K.L.LUKA, AGED 68 YEARS,
S/O LATE LUKA, KILIYANPURACKAL HOUSE,
ATHIRAMPUZHA, KOTTAYAM.

BY ADV. SRI.V.PHILIP MATHEW

RESPONDENTS:

1. DIRECTOR GENERAL OF POLICE,
THIRUVANANTHAPURAM.
2. THE SUB INSPECTOR OF POLICE,
ETTUMANNOOR.
3. THE CIRCLE INSPECTOR OF POLICE,
PONNANI.
4. MOUNATHUL ISLAM ASSOCIATION,
PONNANI, REPRESENTED BY ITS SECRETARY.
5. USMAN, GENERAL MANAGER,
R.F.INDUSTRIES, AROOR, ERNAKULAM.

R1 TO R3 BY GOVT.PLEADER SRI P.A.SALIM.

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION
ON 20/06/2007 ALONG WITH W.P(C).NO.18253/2007, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN & K.HEMA, JJ.

W.P. (Cr1) NO.150 OF 2007 &
W.P. (C) No.18253 OF 2007

Dated this the 20th day of June, 2007

JUDGMENT

Raman, J.

W.P.(Cr1.) No.150/2007 is filed by one K.L. Luka, aged 68 years, alleging that his daughter, Roncymole, now known as Asiya Mariyam, aged 27 years, is under the illegal detention of the 5th respondent. It is stated that his daughter is a graduate and employed in a private firm at Ernakulam under the 5th respondent. The petitioner was trying to arrange a marriage for his daughter and on 5/6/2007, while he had gone to a house at Kakkoor near Koothattukulam in connection with a marriage proposal for his daughter, he received a message from his daughter saying that she had gone to Ettumanoor, after keeping the key of the house in the place where it is normally kept. Later, he was informed that she had gone to Ponnani and that she had joined the 4th respondent institution for studying about Muslim religion. Petitioner on enquiries could not trace out his daughter and hence it was reported to the Sub Inspector of Police, Ettumanoor on 7/6/2007 and Crime No.267/2007 of Ettumanoor Police Station was also registered as a man

missing case. It is also alleged that the petitioner, his son and his relatives went to Ponnani along with the Police Constables and met his daughter in the premises of the 4th respondent; however, they were not permitted to talk freely to his daughter and insisted the presence of the office bearers of the 4th respondent, if the petitioner wants to talk with the alleged detenu. According to the petitioner, from the conduct of his daughter he believes that she has been trapped by some persons including the 5th respondent with vested interest and brought to the 4th respondent under the guise of learning Islam. It is the case of the petitioner that his daughter is under the illegal custody of the 5th respondent against her will and without her consent and her staying in the 4th respondent-institution is on compulsion and it is prayed that an appropriate writ of habeas corpus be issued for production of his daughter, Roncymole, now known as Asiya Mariyam, before this Court.

2. W.P.(C).No.18253/2007 is filed by Asiya Mariyam, the alleged detenu in W.P.(Crl.)No.150/2007 filed by her father, the 6th respondent herein. It is the case of the petitioner that she is a graduate and is employed in a private firm as Quality Control Technologist for about 6 years and she has taught the students in St.

Mary's Sunday School, Athirampuzha for two years. In return to a Bible presented by her, she received a copy of Quran translated in Malayalam authored by Moulana Moudidi. On reading of the Quran she was impressed by its ideals more appealing and was cherishing to become a Muslim. She also came to know that recognised institution to embrace Islam and instructions to lead a Muslim life is the Mounathul Islam Association at Ponnani. On 5/6/2007 at about 11 a.m. she left her house and reached Ponnani in the evening and gave an application to the Mounathul Islam Association and on her request she was admitted in the said institution, which is arrayed as 5th respondent herein. The other averments in the writ petition are to show that the petitioner is a free person, who is able to freely contact with her relatives over phone. It is alleged that the 3rd respondent intimated the 5th respondent to produce her at the police station on 13/6/2007 for questioning her in a crime registered for man missing case. Petitioner prays that she may be given necessary police protection to reach the police station as required by the 3rd respondent so as to ensure her return to the same place from where she proceeded. It is also alleged that the man missing case is only to harass the petitioner. Petitioner has chosen to reside in the 5th

respondent's institution out of her free will and consent.

3. Learned Government Pleader would submit that the 3rd respondent-Sub Inspector of Police, Ettumanoor asked the petitioner to appear before the Magistrate's Court, Ettumanoor, since a man missing case is already registered on a complaint made by her father.

4. Learned counsel for the petitioner in the course of argument on the previous day of the posting of this case submitted that the petitioner is prepared to appear before this Court, in case protection is afforded to her. We have already given police protection for the life of the petitioner as per the interim order already passed and accordingly, the petitioner appeared before us today. We interacted with the petitioner extensively and we are satisfied that Asiya Mariyam, the petitioner in W.P.(C).No.18253/2007 and the daughter of the petitioner in W.P.(Crl.) No.150/2007, is aged 27 years and has already attained majority, she has got necessary educational backing so as to enable her to take a decision on her own and that she is a free person and is residing in the Mounathul Islam Association on her free will and consent and not due to any compulsion from anybody. We have also given an opportunity to K.L. Luka, father of the alleged detenu for a free talk with his daughter.

5. In the facts and circumstances of the case, we declare that she is a free person and not under the illegal custody as alleged in the writ petition and W.P.(Crl.) No.150/2007 is dismissed.

6. A copy of this judgment shall be produced by the Government Pleader before the Magistrate's Court, Ettumanoor, so as to enable the Magistrate to pass final orders on the man missing case. Since we have already given police protection to the petitioner by an interim order passed in W.P.(C).No.18253/2007, we make the order absolute. In view of the above background, unless otherwise ordered by the learned Magistrate, the presence of Asiya Mariyam may not be insisted.

W.P.(C).No.18253/2007 is disposed of as above.

**P . R . RAMAN ,
Judge .**

**K . HEMA ,
Judge .**

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